

Chameleon Radio Corporation

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May 2, 1997

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FCC MAIL ROOM

Mr. William F. Caton, Acting Secretary
Office of the Secretary
Federal Communications Commission
Second Floor
1919 M Street, N.W.
Washington, D.C. 20554

Re: Amendment to Proposed Findings of Fact and Conclusions of Law in
MM Docket 96-173

Dear Mr. Caton:

Transmitted herewith or an original and five (5) copies an amendment to the Proposed Findings of Fact and Conclusions of Law of Chameleon Radio Corporation in the above cited case.

Following the filing of the original Findings of Fact and Conclusions of Law, it was discovered that the word processor inadvertently repeated the bottom two lines of text on Page 16 on the top of Page 17 and deleted the bottom two lines of Page 24. Corrected Pages 17 and 24 are included in this Amendment and should be substituted in copies where appropriate. Chameleon apologizes for any inconvenience this may cause.

Please be made aware of the fact that under separate cover, copies of this document are this day being sent via Federal Express overnight courier to the offices of the Honorable Joseph Chachkin, Administrative Law Judge in this case, as well as the offices of Mr. Alan E. Aronowitz, esq., the counsel the Bureau in this case.

A copy of this document is also being made a part of the KFCC public inspection file.

Respectfully submitted,



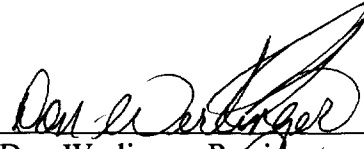
Don Werlinger, President
Chameleon Radio Corporation

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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing FIRST AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF CHAMELEON RADIO CORPORATION has on this 2nd day of May, 1997, been delivered via Federal Express courier to the offices of Alan E. Aronowitz, Esq., Suite 8210, 2025 M Street, N.W., Washington D.C. 20554 and the Honorable Joseph Chachkin, Administrative Law Judge, Suite 226, 2000 L Street, N.W., Washington D.C. 20554. Another six (6) copies of the above have been sent via Federal Express courier to the offices of the Secretary, Federal Communications Commission, Second Floor, 1919 M Street, N.W., Washington, D.C. 20554.


Don Werlinger, President
Chameleon Radio Corporation

43. In filing the STA request and deciding what information to provide in that request, Mr. Werlinger relied on his years of experience in working with the Commission's staff relating to documentation and required information. He was well aware that some STA requests provided no technical showing at all, but were granted in response to a simple letter request. And he was of course, aware of how the Commission's staff had granted the initial STA request and numerous extensions for station KVCJ at Mineola, Texas. Therefore, he considered the information contained in his original request to be more than sufficient for the Commission's staff to make a determination on the request. His belief proved reasonable when, with the exception of the question relating to antenna construction, the STA was granted fifteen days after it was originally requested.

44. As to the question of antenna construction, the fact is, Mr. Vu had no understanding of whatever unwritten policy there was because no clear policy regarding antenna construction in STA's existed. That is brought into focus in a review of the Commission's July 25, 1995 Letter of Inquiry. (Chameleon Exhibit I, Page: 4, at 2). As justification for the supposed policy regarding STA antenna construction, the staff letter made a feeble reference to being "disinclined" to grant construction in such case. No prohibition was cited in the Letter because none exists as Mr. Werlinger repeatedly and ultimately failed in pointing out to Mr. Vu.

45. In citing the Patton case, the Commission directs us to its Achilles heal in this case, pointing precisely to the source of its ambiguous and contradictory authority to act. Dipping into Patton, the staff grants to itself the ability to have its cake and eat it too.

F. Once faced with the alternative of defending himself or see the loss of the fruit of a life's work, Mr. Werlinger acted aggressively and quickly to take action which he felt would protect and continue the service he had established. Werlinger spent many days at 1919 M Street telling his story and asking for help and he was as concise and detailed in telling his story as the listener would allow. He had no reason to lie or deceive. Don Werlinger believed, believes, with every fiber in him that the actions taken by him in this case were right, that the service he was providing to the minority communities in the market which where previously unavailable, are not only needed but are at the heart of the mandate to licensees to serve the public interest.

G. Finally, there is something very different and as yet unexplained in the way the Commission has handled the STA for KVCJ versus that of KFCC. Admittedly, in practically any other setting, the KVCJ situation would have little bearing on the KFCC case; however, there are simply too many parallels in the way the two STA requests were initially processed and too much inconsistency in the way the two cases were handled subsequent to the KFCC controversy not to look at them both here. There is clear evidence the Commission has dealt with the KVCJ situation in a dramatically different way than that of KFCC. Why? We can only conclude that the Commission's cancellation of the KVCJ STA in January, 1996 was an attempt to publicly validate their arbitrary treatment of Mr. Werlinger. In contrast, their reinstatement of the KVCJ STA in March, 1996 and its subsequent renewals through January, 1997 prove their duplicitous policy and a singularly adversarial approach to dealing with Mr. Werlinger and the KFCC situation.